

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23733 )  
and Permit 15676 (Application 22622), )  
NORTH COAST COUNTY WATER )  
DISTRICT, )  
Applicant and Permittee; )  
BOARD OF DIRECTORS OF ECOLOGY ACTION )  
OF PACIFICA, INC., et al. )  
Protestants. )

Decision 1472

DECISION APPROVING APPLICATION IN PART  
and  
EXTENDING TIME UNDER PERMIT

BY THE BOARD:

North Coast County Water District ("District") having filed Application 23733 for a permit to appropriate unappropriated water; protests to said application having been filed; public hearings having been held before the State Water Resources Control Board on December 9, 1971; December 11, 1974; and January 21 and 22, 1975; District having petitioned for extension of time to complete use of water under Permit 15676 (Application 22622); public hearings having been held on December 11, 1974, and January 21 and 22, 1975, said hearings having been consolidated with those on Application 23733 of the same dates; District and protestants having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

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The Application and Existing Entitlements

1. Application 23733 is for a permit to appropriate 0.56 cubic feet per second (cfs) from October 1 to November 30, 0.65 cfs from December 1 to May 31, and 1.12 cfs from June 1 to September 30, all of each year and all by direct diversion. The proposed appropriation is for municipal use. The proposed source is South Fork San Pedro Creek in San Mateo County, the point of diversion to be located within the NE1/4 of SW1/4 of Section 24, T4S, R6W, MDB&M.

2. District holds Permit 15676 (Application 22622) to appropriate 1.5 cfs from December 1 to June 1, and 0.2 cfs from June 1 to December 1, all of each year and all by direct diversion. Source of water under this entitlement is Middle Fork San Pedro Creek; the point of diversion thereunder is on Middle Fork immediately above the confluence of South Fork with Middle Fork.

3. District holds License 9038 (Application 16162) to appropriate 0.47 cfs from December 1 to May 31 from the same source and at the same diversion point specified in the application under consideration herein.

4. Most of District's water supply to serve the City of Pacifica is purchased from the City and County of San Francisco, either directly or through an intermediate supplier. In recent years more than 90 percent of District's supply has been derived from that source; San Pedro Creek system is the source of the remainder of District's supply.

5. Water obtained by the District from San Pedro Creek under both existing entitlements is treated at a diatomaceous earth filter treatment plant near the diversion point on South Fork, specified in its existing license, which is the same point of diversion specified in the application under consideration. The South Fork diversion is by gravity. However, water diverted to the plant from the Middle Fork, under District's existing permit, must be pumped.

6. The record discloses that District's intentions regarding its permitted Middle Fork diversion are ambivalent. District stated at the 1971 hearing that it would abandon plans for the permitted Middle Fork diversion if the appropriation under consideration herein were approved. However, District completed an installation under the Middle Fork permit late in 1973. District subsequently again indicated that the permitted Middle Fork diversion would be discontinued if the instant application is approved; nevertheless, District requested an extension of time to complete use of water under the Middle Fork permit and that request was included in the matters heard. In any event, any extension of time on the Middle Fork permit should restrict combined diversion under all three entitlements to 1.55 cfs, which is the capacity of the treatment plant.

#### Water Supply

7. San Pedro Creek is formed by the confluence of its North, Middle, and South Forks and flows in a generally

northwesterly direction about two miles across San Pedro Valley to the Pacific Ocean. The San Pedro Creek drainage is a relatively small coastal system; straight-line distance from the debouchment of San Pedro Creek into the Pacific Ocean to a point on the divide separating the easterly and westerly Coast Range drainages is less than 4 miles.

8. Little usable streamflow data is available from which to make a reasonable estimate of the normal flow regimen and its variations, either annual or seasonal. Substantial evidence, including precipitation and long-term runoff records from the nearby Pescadero Creek watershed, does exist to establish that flows will occur at the diversion during large portions of the winter season sufficient to warrant approval of the application in part. The critical issues involved in action upon the instant application concern the needs of the fishery resource in the San Pedro Creek system and the relationship of these needs to applicant's proposed year-round diversion, to which subject we now turn.

#### The Steelhead Fishery

9. The San Pedro Creek system supports a unique resource: a steelhead fishery in an urbanized area. It is clearly in the public interest that this Board not take action in this matter which would in any way contribute to the decline of this resource.

10. The needs of the steelhead resource, including minimum instream flows at points below applicant's diversions

(Linda Mar Boulevard Bridge and the bridge at State Highway 1) and bypass flows at the point of diversion proposed by the instant application, were the subject of sharply conflicting evidence and recommendations by applicant on the one hand, and protestants Department of Fish and Game ("Department") and Pacifica Creek Protection Committee on the other. It is found, however, that main stem flows will meet or exceed any reasonable minimum during the winter and spring, when diversions pursuant to exercise of prior rights are minimal, even with combined South Fork and Middle Fork diversions at the capacity of applicant's treatment plant. It is further found to be probable that the flow at the proposed point of diversion will meet or exceed, during a large portion of the winter season, 1.27 cfs (the sum of the 1.12 cfs maximum diversion and the 0.15 cfs minimum bypass recommended by the Department).

11. The presentations of all parties with regard to minimum flows were based on studies of low flow season conditions. However, in weighing this evidence against that degree of certainty required to assure preservation of the steelhead fishery -- preservation which the public interest requires -- and considering variability of main stem flows resulting from exercise of prior rights below Linda Mar Boulevard Bridge, we cannot find that water is available for appropriation during the low flow season.

12. Further, sufficient uncertainty exists as to the adequacy of the bypass flow recommended by the Department and availability of flows in South Fork during winter and spring to

require retention of jurisdiction to revise the required bypass flow at the proposed point of diversion.

#### DETERMINATION OF ISSUES

13. Unappropriated water is available to warrant approval of Application 23733 for 0.65 cfs from December 1 through April 30, provided jurisdiction is retained to revise the bypass flow at the point of diversion after a period of actual operation.

14. The intended use is beneficial.

15. Extension of time to place water to beneficial use under Permit 15676 is justified.

#### ORDER

1. Application 23733 is approved in part to permit appropriation of 0.65 cfs from December 1 through April 30, subject to the following conditions:

a. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.65 cubic feet per second to be diverted from December 1 to April 30 of each year. The maximum amount diverted under this permit shall not exceed 193 acre-feet per year.

b. To maintain fishery resources permittee shall at all times bypass a minimum of 0.15 cubic foot per second or the total flow of South Fork San Pedro Creek, whichever is less, at the point of diversion. Jurisdiction is reserved to revise this bypass requirement after notice to interested parties and opportunity for hearing.

c. The amount authorized for appropriation may be reduced in the license if investigation warrants.

Complete application of the water to the proposed use shall be made on or before December 1, 1981.

Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

Pursuant to California Water Code Section 100 all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water. This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (3) suppressing evaporation losses from water surfaces; (4) controlling phreatophytic growth; and (5) installing, maintaining,

and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flow required by the conditions of this permit. Said measuring device shall be properly maintained.

In accordance with Section 1602 and/or Section 6100 of the Fish and Game Code, no water shall be diverted under this permit until the Department of Fish and Game has determined that measures necessary to protect fishlife have been incorporated into the plans and construction of such diversion. The construction, operation, or maintenance costs of any facility required pursuant to this provision shall be borne by the permittee.

The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

2. Permit 15676 (Application 22622) is amended as follows:

a. Complete application of the water to the proposed use shall be made on or before December 1, 1981.

b. During the period from December 1 through May 31 the total quantity of water diverted under this permit, together with that diverted under permits or licenses pursuant to Applications 16162 and 23733 shall not exceed 1.55 cfs.

c. The maximum amount diverted under this permit and permits or licenses pursuant to Applications 16162 and 23733 shall not exceed 630 acre-feet per year.

d. Permit Term 11 is amended to read:

"Pursuant to California Water Code Section 100 all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

"This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (3) suppressing evaporation losses from water surfaces; (4) controlling phreatophytic growth; and (5) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are

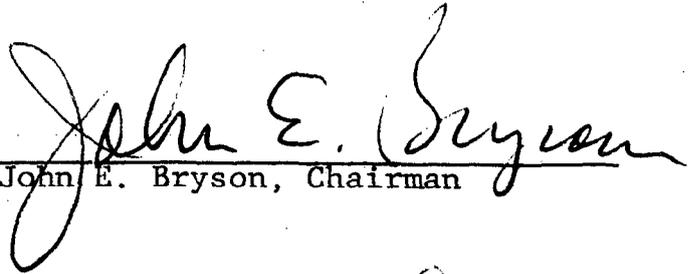
physically and financially feasible and are appropriate to the particular situation."

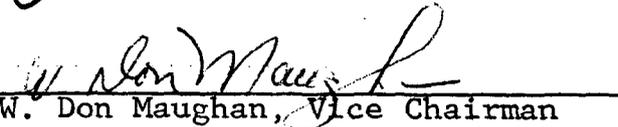
3. The following term is added:

"The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges."

4. The effective date of this Decision and Order shall be the date upon which the certificate of review of environmental document is signed and filed.

Dated: August 18, 1977

  
John E. Bryson, Chairman

  
W. Don Maughan, Vice Chairman

  
W. W. Adams, Member